

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 3685 of 20 November, 2008

LEGAL NOTICE NO. 86 OF 2008.

ENVIRONMENT ACT 2005

ENVIRONMENT (ABSTRACTION OF GROUND WATER) (AMENDMENT) REGULATIONS 2008

In exercise of the powers conferred upon it by section 18 of the Environment Act 2008, and all other enabling powers, the Government has made the following Regulations–

Title and commencement.

1. These Regulations may be cited as the Environment (Abstraction of Ground Water) (Amendment) Regulations 2008 and come into operation on the day of publication.

Amendments.

2.(1) The Environment (Abstraction of Ground Water) Regulations 2007 (hereinafter “the principal Regulations”) are amended in accordance with these Regulations.

(2) In regulations 6 and 7 of the principal Regulations, wherever the words “Special Area of Conservation” or “Special Area of Conservation’s” appear substitute “European Site” or “European Site’s”, as the case may be.

(3) In regulation 2 of the principal Regulations–

(a) before the definition “ground water” insert–

““European Site” means–

- (a) a Special Area of Conservation,
- (b) a site of Community importance which has been placed on the list referred to in the third subparagraph of Article 4(2) of the Habitats Directive,

- (c) a site hosting a priority natural habitat type or priority species in respect of which consultation has been initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a decision of the Council under Article 5(3), or
 - (d) an area classified pursuant to Article 4(1) or (2) of the Wild Birds Directive;”;
- (b) after the definition of “Minister” insert–
- ““Natura 2000” means the European network of special areas of conservation and special protection areas under the Wild Birds Directive provided for in Article 3(1) of the Habitats Directive.”.
- (4) In regulation 4 of the principal Regulations, for the words “Regulation 2” substitute “Regulation 3”.
- (5) In regulation 6 of the principal Regulations–
- (a) in subregulation (1) for the words “and (3)” substitute “to (5)”; and
 - (b) for subregulation (5) substitute–
- “(5) Subject to regulation 8 the Minister shall not issue a licence unless he is satisfied that the issue of the licence would not have a negative effect on the European Site’s conservation objectives.”.
- (6) For regulation 8(1) of the principal Regulations substitute–
- “8.(1) Where there are negative implications for the European Site the Minister may subject to subregulation (3) issue a licence if–
- (a) he is satisfied that there are no alternative solutions available; and

- (b) there are imperative reasons of overriding public interest, including those of a social or economic nature.”;

(7) after regulation 10 of the principal Regulations insert–

“Communication of compensatory measures.

11. Where a licence issued under regulation 8 includes compensatory measures under subregulation (2) the Minister shall inform the European Commission of those compensatory measures.”.

Dated 20th November, 2008.

E M BRITTO,

Minister with responsibility for the Environment,
for the Government.

EXPLANATORY MEMORANDUM

These Regulations amend the Environment (Abstraction of Ground Water) Regulations 2007. The principal amendments relate to the restrictions on the issue of a licence absent the Minister being satisfied that there are no negative implications for the European Site’s conservation objectives (regulation 6(5)).

Where the Minister is minded to issue a licence where an assessment has concluded that the abstraction of ground water is likely to have a negative impact on a protected area the Minister must be satisfied that there are no alternative solutions available in addition to there being imperative overriding public interest grounds (regulation 8(1)).

Also, where a licence is issued and compensatory measures are included in the licence, the Minister must inform the European Commission of those measures (regulation 11).